APPROVED SEPTEMBER 13, 2010

**State of Maine**
**Board of Licensure in Medicine**
**137 State House Station, 161 Capitol Street**
**Augusta, Maine 04333-0137**
**Minutes of July 13, 2010**
**INDEX**

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**Minutes of July 13, 2010**

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**BOARD MEMBERS PRESENT**
Sheridan R. Oldham, M.D., Chairman
Gary R. Hatfield, M.D., Board Secretary
David H. Dumont, M.D.
Maroulla Gleaton, M.D.
Bettsanne Holmes
David D. Jones, M.D.
David Nyberg, Ph.D.

**BOARD STAFF PRESENT**
Randal C. Manning, Executive Director
Dan Sprague, Assistant Executive Director
Jean M. Greenwood, Administrative Assistant
Tim Terranova, Consumer Assistant
Maria MacDonald, Board Investigator

**ATTORNEY GENERAL'S OFFICE**
Dennis Smith, Assistant Attorney General
Detective Peter Lizanecz

Ms. Clukey and Dr. Dreher were excused from the meeting. Dr. Oldham and Dr. Jones were recused and were not present for the Adjudicatory Hearing.

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The Board meets in public session with the exception of the times listed below, which are held in executive session. Executive sessions are held to consider matters which, under statute, are confidential 1 M.R.S. §405, 10 M.R.S. §8003-B, 22 M.R.S. § 1711-C, and 24 M.R.S. § 2510. The Board moved, seconded, and voted the following executive session times. During the public session portions of the meeting actions are taken on all matters discussed during executive session. Discussions are projected on a screen by POWERPoint projection.

| **PUBLIC SESSIONS** | **PURPOSE** |
|---|---|
| 9:04 a.m. – 9:05 a.m. | Call to order. |
| 11:00 a.m. – 11:00 a.m. | Public Session |
| 11:11 a.m. – 12:30 p.m. | Public Session |
| 1:09 p.m. – 1:25 p.m. | Pre hearing motions (Board members not present) |
| 1:25 p.m. – 3:49 p.m. | Continuance of Adjudicatory Hearing<br>CR 08-315 Ellen E. Michalowski, M.D. |
| **EXECUTIVE SESSION** | |
| 9:05 a.m. – 11:00 a.m. | Progress Reports, New Complaints & A&Ds. |
| **RECESS** | |
| 11:00 a.m. – 11:11 a.m. | Recess |
| 12:30 p.m. – 1:09 p.m. | Noon Recess |

I. CALL TO ORDER

Dr. Oldham called the meeting to order at 9:04 a.m.

A. Amendments to Agenda

1. Amend to Section VIII (B) (1) Consent Agreement Monitoring and Approval
   a. CR 10-208 – Consent Agreement for approval
   b. Linda Keniston-Dubocq, M.D. – approval of providers
2. Amend to Section II. Progress Reports – CR 09-468
3. Amend off the agenda XIII. Secretary's Report (G) (4) James Georgitis, M.D. and (5) Alexandra Craig, M.D.

B. Scheduled Agenda Items
1:00 p.m. Adjudicatory Hearing CR 08-315 Ellen E. Michalowski, M.D.

EXECUTIVE SESSION

II. PROGRESS REPORTS

1. CR 09-314

Ms. Holmes moved to order an Informal Conference in the matter of CR 09-314. Dr. Gleaton seconded the motion, which passed unanimously.

2. CR 10-011

Dr. Jones moved to dismiss CR 10-011. Dr. Dumont seconded the motion, which passed unanimously.

The complainant alleges that in the case of his son, the supervising physician failed to guarantee proper treatment by his mid-level supervisee.

Review of this record shows that the supervising physician was not present or available during the care of the complainant's son. There was a secondary supervisor available but he was not consulted by the mid-level provider.

Review of 10 other records shows excellent supervision of this mid-level by her supervising physician. The patient's outcome in this case was extremely unfortunate but not due to the physician's supervision. The Board recommends dismissal of this complaint but notes that the case was referred to the mid-level's licensure board.

3. CR 10-063 MICHAEL E. SZELA, M.D.

Dr. Jones moved to dismiss, with a letter of guidance, the complaint in the matter of CR 10-063 Michael E. Szela, M.D. Dr. Dumont seconded the motion, which passed 6-0-0-1 with Dr. Gleaton recused.

The complainant alleges that the physician acted in an incompetent and unprofessional manner while treating her. She states he did not provide sufficient pain medicine during a very painful orthopedic experience. The complaint also alleges that he yelled at her and told her that she had

done the injury to herself. Her social worker became angry with him during a visit. She also noted that the physician uses "white out" on the original medical record to make changes.

Review of this patient's medical record supports the physician's response that he was exceptionally attentive to the patient's needs over the years – especially regarding her orthopedic experience. He does not blame the patient for her accident, and he does not remember the social worker becoming angry during a visit. He states that the patient did return to see him after the office visit that the complaint alludes to, and only then did their relationship end, based primarily on her violation of her pain contract.

The physician did use white out on the medical record and review of 5 other charts confirmed routine use of white out, but only on the patients' medicine list as doses changed or where medicines were stopped.

The letter of guidance will address the inappropriate use of white out resulting in the loss of information in the medical record.

4. CR 10-103 WILLIAM A. DEMICCO, M.D.

Dr. Gleaton moved to dismiss, with a letter of guidance, the complaint in the matter of CR 10-103 William A. Demicco, M.D. Dr. Jones seconded the motion, which passed 6-1.

A patient complained that a physician performing a yearly physical exam for her did a breast exam without discussing it with her beforehand. The physician responded that he was sorry if he offended the patient, but as part of good evidence –based medical care, he performs breast exams in all women yearly, especially if they have a history of smoking and lung nodules. This response seems reasonable; however, the physician should communicate with patients about what will be done during the examination especially of intimate body parts before commencing the exam. A female chaperone should be offered to a patient before performing breast or pelvic exams. Lastly and significantly, the Board considers physical examinations done through layers of clothing substandard and inadequate medical evaluation. Having a patient undress and robe in a simple Johnny allows the patient to anticipate and prepare for the thoroughness of the pending exam. It also affords the physician the opportunity to perform the exam in the proper manner.

5. CR 09-210

Dr. Hatfield moved to unset the Adjudicatory Hearing previously ordered in the matter of CR 09-210. Dr. Dumont seconded the motion, which passed unanimously.

CR 09-210 MOHAMOUD Y. HINDI, M.D.

Dr. Nyberg moved to dismiss, with a letter of guidance, the complaint in the matter of CR 09-210 Mohamoud Y. Hindi, M.D. Dr. Jones seconded the motion, which passed unanimously.

The Board believes the conduct does not rise to the level of disciplinary action. The Board finds no violation of the standard of care in this case but does consider Dr. Hindi's attitude toward the

patient and his medical recordkeeping to be deficient if not unprofessional. In addition the Board considers Dr. Hindi's reluctance to comply with the Board's requests to be disrespectful.

6. CR 09-468

Dr. Dumont moved to accept the course proposed by the physician in lieu of the course the Board recommended which is no longer available. Dr. Nyberg seconded the motion, which passed unanimously.

7. COMPLAINT STATUS REPORT (FYI)

8. CONSUMER ASSISTANT FEEDBACK (FYI)

9. REVIEW DRAFT LETTERS OF GUIDANCE

a. CR 10-076 PETER A. BRIDGMAN, M.D.

Dr. Gleaton moved to approve the Bridgman letter of guidance. Dr. Jones seconded the motion, which passed unanimously.

b. CR 09-455 JOSHUA P. COLE, M.D.

Dr. Hatfield moved to approve the Cole letter of guidance. Dr. Gleaton seconded the motion, which passed unanimously.

c. CR 09-561 MARGARET M. SWAN, P.A.-C

Dr. Gleaton moved to approve the Swan letter of guidance. Dr. Jones seconded the motion, which passed unanimously.

d. CR 09-307 HECTOR M. TARRAZA, M.D.

Dr. Dumont moved to approve the Tarraza letter of guidance. Dr. Hatfield seconded the motion, which passed unanimously.

III. NEW COMPLAINTS

10. CR 10-005

Dr. Hatfield moved to dismiss CR 10-005. Dr. Gleaton seconded the motion, which passed unanimously.

The complainant feels that the physician should have done periodic Prostate-specific antigen (PSA) testing and should have identified an abnormality during the patient's prostate examinations. The complainant developed prostate cancer, and feels that it would have been

discovered at an earlier stage had PSA testing or a competent prostate examination been performed.

A review of the records shows that PSA testing was discussed with the patient at the time of his initial PSA test, which the patient requested. The patient again requested a PSA test the next year, which was performed. The patient was aware that no further PSA testing was done, as the results of his laboratory studies were mailed to him. Prostate examinations were done regularly by the physician, and it is not possible to know if there was any palpable abnormality present on the examination 6 months before the patient's prostate cancer diagnosis.

Current preventative health care guidelines as recommended by the U.S. Preventive Services Task Force (USPSTF) do not recommend routine PSA testing for screening purposes.

11. CR 10-034

Dr. Jones moved to investigate further CR 10-034. Dr. Dumont seconded the motion, which passed unanimously.

12. CR 10-038

Dr. Jones moved to order an Informal Conference in the matter of CR 10-038. Dr. Dumont seconded the motion, which passed unanimously.

13. CR 10-053

Dr. Dumont moved to dismiss CR 10-053. Dr. Jones seconded the motion, which passed unanimously.

This case involves a couple undergoing extensive evaluation and treatment for infertility. The patient complains about poor communication, poor medical oversight of care, and certain medications that were withheld to force her to have unnecessary procedures. She further alleges that she was not kept informed of the process and plans and this resulted in the loss of valuable time in her efforts to achieve pregnancy.

Review of records indicates that appropriate care was provided in a timely fashion. There appears to be adequate documentation of plans and treatment options; however, it is not possible to know exactly the substance of what was said. The physician admits that on a phone conversation he did confuse this patient with another patient with a nearly identical name who was getting a similar treatment and that he apologized for this confusion. There was also some conflict with a payment but this is not a Board of Licensing issue. Infertility evaluations are often frustrating, which makes good communication by providers essential. While communication may have been less than optimal, the care in this case seems reasonable.

14. CR 10-089 DAVID S. HILL, M.D.

Dr. Dumont moved to dismiss, with a letter of guidance, the complaint in the matter of CR 10-089 David S. Hill, M.D. Dr. Gleaton seconded the motion, which passed unanimously.

This case involves a physician who continued to prescribe narcotics to patients despite documented evidence that at least some of these patients were diverting medications. The physician admits that in these cases patients were on extremely high doses of narcotics for valid medical reasons and when he became aware of law enforcement concerns he made sincere attempts to wean them off the narcotics.

Review of the physician's response and records shows a very caring doctor who was too trusting of his patients, something to which he admits. These were medically complicated patients who were generally seen frequently and did have appropriate urine toxicology follow-up as well as appropriate sub-specialty care. Pill counts were at times lacking and Pain Clinic consultations were also lacking as was the physician's use of the Prescription Monitoring Program (PMP). In addition, patients were prescribed extremely high doses of narcotics even on institution of treatment.

The physician states he has made significant changes in his practice. Contracts, pill counts, PMP monitoring and drug screening are now routine. He has made himself familiar with the local Pain Clinic staff and often uses them as a referral. He has hired additional practice support to manage narcotic prescriptions and is working with the Maine Medical Association to improve his narcotic prescribing.

The letter of guidance will encourage the physician to continue with the practice changes he has outlined and to continue to work with the Maine Medical Association to improve his narcotic prescribing and monitoring practices. The PMP report should be reviewed monthly on all outpatients with chronic narcotic use. The physician should also attempt to utilize the lowest dose of medications that achieves therapeutic response and should attend further continuing medical education (CME) regarding the prescribing of narcotics.

15. CR 10-104

Dr. Hatfield moved to dismiss CR 10-104. Dr. Gleaton seconded the motion, which passed unanimously.

The complainant feels that the physician did a poor job with her reconstructive breast surgery after her mastectomy, leading to permanent disfigurement that the physician as well as another surgical consultant felt could not be improved upon. She also has multiple complaints about the physician's behavior, including claims that the physician asked for money at each visit and claimed to have investigated her financial status, that he sedated her against her will before surgery, and that he made nurses leave the operating room against their will, leaving the patient alone with only the doctor in the operating room.

A review of the records shows a poor outcome from the patient's surgical procedures, but that the care was appropriate and well documented; unfortunately, poor outcomes can occur even

with appropriate care. Both the physician as well as the second consultant clearly state that there are options available to the patient to further reconstruct the breast.

The patient's other claims cannot be substantiated, and there is evidence of informed consent before the patient's surgical procedures. Of note, the patient was almost always accompanied by a daughter to her appointments.

16. CR 10-144

Dr. Jones moved to order an Informal Conference in the matter of CR 10-144. Dr. Gleaton seconded the motion, which passed unanimously.

17. CR 10-042 MATTHEW R. CAMUSO, M.D.

Dr. Dumont moved to dismiss, with a letter of guidance, the complaint in the matter of CR 10-042 Matthew R. Camuso, M.D. Dr. Gleaton seconded the motion, which passed unanimously.

In this case an elderly woman was admitted to the hospital after a fall at home in which she suffered a hip fracture. As part of her Emergency Department (ED) evaluation she was found to have an abnormal chest x-ray with non-specific findings. Radiology recommended further x-rays be obtained but because of the fracture this was not done in the ED.

The patient went on to have the hip surgically fixed but neither the Hospitalist Service nor Orthopedic Service followed-up on the x-ray and the patient was subsequently discharged with no plan of care or follow-up for the abnormality. The primary care provider received the ED notes but no subsequent records.

The physician assistant who dictated the discharge summary for the Orthopedic Service, and her supervising attending, ideally should have made sure that the patient's care was complete at time of discharge from their Service as this patient was primarily their responsibility. At a minimum the patient's primary care provider should have been fully informed.

The letter of guidance will encourage the inclusion of all medical issues needing further attention in patients' discharge summaries with special attention to communication with physicians responsible for follow-up care.

18. CR 10-043 CHERYL S. DeGRANDPRE, P.A.-C.

Dr. Dumont moved to dismiss, with a letter of guidance, the complaint in the matter of CR 10-043 Cheryl S. DeGrandpre, P.A.-C. Dr. Hatfield seconded the motion, which passed unanimously.

In this case an elderly woman was admitted to the hospital after a fall at home in which she suffered a hip fracture. As part of her Emergency Department (ED) evaluation she was found to have an abnormal chest x-ray with non-specific findings. Radiology recommended further x-rays should be obtained but because of the fracture this was not done in the ED.

The patient went on to have the hip surgically fixed but neither the Hospitalist Service nor Orthopedic Service followed-up on the x-ray and the patient was subsequently discharged with no plan of care for the abnormality. The primary care provider received the ED notes but no subsequent records.

The physician assistant who dictated the discharge summary for the Orthopedic Service, and her supervising attending, ideally should have made sure that the patient's care was complete at time of discharge from their Service as she was primarily their responsibility. At a minimum the primary care provider should have been fully informed about the need for follow-up care.

The letter of guidance will encourage the inclusion of all medical issues needing further attention in patients' Discharge Summaries with special attention to communication with physicians responsible for follow-up care.

19. CR 10-041 BURT YANKIVER, M.D.

Dr. Dumont moved to dismiss, with a letter of guidance, the complaint in the matter of CR 10-041 Burt Yankiver, M.D. Dr. Gleaton seconded the motion, which passed unanimously.

In this case an elderly woman was admitted to the hospital after a fall at home in which she suffered a hip fracture. As part of her Emergency Department (ED) evaluation she was found to have an abnormal chest x-ray with non-specific findings. Radiology recommended further x-rays should be obtained but because of the fracture this was not done in the ED.

The patient went on to have the hip surgically fixed but neither the Hospitalist Service nor Orthopedic Service followed-up on the x-ray and the patient was subsequently discharged with no plan of care for the abnormality. The primary care provider received the ED notes but no subsequent records.

The Hospitalist alleges he is only responsible for assessing and managing the patient's immediate peri-operative issues and the radiologic abnormalities should have been addressed by the patient's primary care provider. While it is clearly the Hospitalist's primary responsibility to take care of the patient's immediate needs, any outstanding medical issue should be either addressed in the record or formally turned over to other physicians for follow-up. There is no note in this patient's chart addressing these concerns and no formal sign-out of this matter.

The letter of guidance will suggest that as Hospitalist it is the physician's responsibility to make sure medical issues of inpatients are either addressed or formally communicated to other physicians who will be providing subsequent care.

20. CR 10-179 SANJAY GUPTA, M.D.

Dr. Dumont moved to dismiss, with a letter of guidance, the complaint against CR 10-179 Sanjay Gupta, M.D. Ms. Holmes seconded the motion, which passed 4-2-0-1 with Dr. Hatfield recused.

This complaint involves a patient who fell down a stairway at a dinner party. She was immediately cared for by a physician friend who then rode with her in the ambulance to the local trauma center where she was admitted with skull fractures, intracranial bleeding, and multiple other complaints. The patient and her physician friend allege the Emergency Department (ED) physician and the trauma surgeon did not take adequate histories and did not listen to the accompanying doctor and were rude to him. They also allege a lack of continuity of care once the patient was admitted and inadequate discharge information from the physician assistant on the trauma service.

Extensive review of hospital records and a large quantity of correspondence indicates that although medical care was adequate there were some gaps in the initial history entered by the ED physician and trauma surgeon. Communication issues were compounded by increased stress and the indeterminate nature of the accompanying physician and his role and reliability during what was thought to perhaps be a "trauma resuscitation" situation. Lack of continuity by a single provider is adequately addressed, as trauma care requires a team. It is not possible for a single physician to always be available as long as there are adequate records and processes for transitions in care management.

The letter of guidance will discuss communication issues and the importance of using all relevant sources of information to obtain an adequate history. Note that bystanders can provide valuable information but all sources of information should be adequately identified. In addition, the use of a problem list which is kept up to date is beneficial in caring for complex patients.

21. CR 10-180 GEORGE A. CANCEL, M.D.

Dr. Dumont moved to dismiss, with a letter of guidance, the complaint against CR 10-180 George A. Cancel, M.D. Dr. Gleaton seconded the motion, which passed 4-2-0-1 with Dr. Hatfield recused.

This complaint involves a patient who fell down a stairway at a dinner party. She was immediately cared for by a physician friend who then rode with her in the ambulance to the local trauma center where she was admitted with skull fractures, intracranial bleeding, and multiple other complaints. The patient and her physician friend allege the Emergency Department (ED) physician and the trauma surgeon did not take adequate histories and did not listen to the accompanying doctor and were rude to him. They also allege a lack of continuity of care once the patient was admitted and inadequate discharge information from the physician assistant on the trauma service.

Extensive review of hospital records and a large quantity of correspondence indicates that although medical care was adequate there were some gaps in the initial history entered by the ED physician and trauma surgeon. Communication issues were compounded by increased stress and the indeterminate nature of the accompanying physician and his role and reliability during what was thought to perhaps be a "trauma resuscitation" situation. This was compounded by the fact that a nurse recorder was used during the initial evaluation and history. Assumptions made by the ED physician about the social situation and the patient's alcohol use might have been over dramatic.

The letter of guidance will discuss communication issues and the importance of using all relevant sources of information to obtain an adequate history. Note that bystanders can provide valuable information but all sources of information should be adequately identified. The physician should avoid making assumptions in recording the history and physical and clearly identify subjective sources of information.

22. CR 10-181

Dr. Dumont moved to dismiss CR 10-181. Dr. Gleaton seconded the motion, which passed 6-0-0-1 with Dr. Hatfield recused.

This complaint involves a patient who fell down a stairway at a dinner party. She was immediately cared for by a physician friend who then rode with her in the ambulance to the local trauma center where she was admitted with skull fractures, intracranial bleeding, and multiple other complaints. The patient and her physician friend allege the Emergency Department (ED) physician and the trauma surgeon did not take adequate histories and did not listen to the accompanying doctor and were rude to him. They also allege a lack of continuity of care once the patient was admitted and inadequate discharge information from the physician assistant on the trauma service.

Extensive review of hospital records and a large quantity of correspondence indicates that although medical care was adequate there were some gaps in the initial history entered by the ED physician and trauma surgeon. Lack of continuity by a single provider is adequately addressed, as trauma care requires a team. It is not possible for a single physician to always be available as long as there are adequate records and processes for transitions in care management. Records indicate the physician assistant in question provided appropriate care although an up to date list of discharge diagnosis was not included in the discharge summary. The PA agrees this was not done and has changed her practice so that it is now included in her discharge summaries.

23. CR 10-036 PAUL A. TESSIER, M.D.

Dr. Gleaton moved to order an Adjudicatory Hearing in the matter of CR 10-036 Paul A. Tessier, M.D. Dr. Dumont seconded the motion, which passed unanimously.

24. CR 10-072

Ms. Holmes moved to dismiss CR 10-072. Dr. Gleaton seconded the motion, which passed unanimously.

The patient complains his narcotic medication was inappropriately discontinued. A random drug screen revealed the presence of controlled substances which were not prescribed. The physician responded that the potential harm of continued narcotic medication outweighed the benefits and a non-narcotic medication was substituted.

25. CR 10-080

Dr. Nyberg moved to dismiss CR 10-080. Dr. Gleaton seconded the motion, which passed unanimously.

The patient's stepdaughter complains about the quality of the physician's care of the patient's infected knee, specifically with regard to postponing follow-up surgery to deal with drainage, which proved to be unnecessary. The complainant offers medical opinions that are inconsistent with the records, and personal opinions at odds with the patient's own with regard to the physician's manner. A second physician's opinion confirms the appropriateness of the physician's care and advice.

26. CR 10-085

Dr. Gleaton moved to dismiss CR 10-085. Ms. Holmes seconded the motion, which passed unanimously.

The complainant alleges that the physician: failed to treat his pain appropriately; based his decision not to prescribe narcotics for pain upon information from prison security; and that other providers have indicated that narcotics are needed to treat his pain. The physician denied that he failed to appropriately treat the complainant's pain, asserted that he did not rely upon security for prescribing decisions, and that a pain specialist agreed that short-acting narcotics were not needed to treat the complainant's pain. A review of the records corroborates the physician's response.

27. CR 10-091

Dr. Hatfield moved to investigate further CR 10-091. Dr. Dumont seconded the motion, which passed unanimously.

28. CR 10-116 PHILIP T. PEVERADA, M.D.

Dr. Jones moved to dismiss, with a letter of guidance, the complaint in the matter of CR 10-116 Philip T. Peverada, M.D. Dr. Hatfield seconded the motion, which passed unanimously.

The patient had a significant complication of a surgery that has left her partially disabled for life. She complains that her original surgeon did not act in a timely manner on her postoperative symptoms. She also complains that he was not appropriately responsive to her phone calls. She states that he caused a complication in an unrelated medical condition that necessitated an emergency surgery by a second surgeon. She complains that the second surgery occurred because the first surgeon did not appropriately integrate an underlying medical condition into her postoperative care. She also feels that her preoperative informed consent by the first surgeon was not adequate.

A review of this complaint supports the patient's contention that she has had a devastating complication due to her surgery. The patient's complication is a recognized risk of this surgery. The surgeon's office visit notes, phone notes and operative note are detailed and accurate

concerning the patient's condition and its cause. The record also supports the surgeon's statement that he, his staff, or the on- call physician returned all calls in a timely manner.

Her first surgeon was pursuing the same course of care that her subsequent physicians pursued after she sought new physicians. This was well documented in the medical record. Timeliness in postoperative testing or referral was not a factor in her eventual outcome.

The informed consent was inadequate. The possibility of nerve injury needed to be discussed in detail with the patient and documented.

The cause of her second emergent surgery was not due to the patient's underlying medical condition at the time of her first surgery, but due to a new problem that developed postoperatively, in part due to the stress of her first surgery, and in part due to postoperative medicines.

The Board dismisses this complaint but does sympathize with the patient's frustration and anger over having a disabling complication of surgery.

A letter of guidance will be sent to the physician emphasizing the absolute need to do an accurate and complete informed consent preoperatively.

29. CR 10-140

Dr. Nyberg moved to dismiss CR 10-140. Ms. Holmes seconded the motion, which passed unanimously.

The patient complains that his knee pain was not appropriately evaluated or treated. The physician responded that the evaluation and treatment of the condition was appropriate. A review of the medical record confirms this.

30. CR 10-163

Dr. Gleaton moved to investigate further CR 10-163. Dr. Dumont seconded the motion, which passed 5-0-0-2 with Dr. Jones and Dr. Hatfield recused.

31. CR 10-182

Ms. Holmes moved to dismiss CR 10-182. Dr. Jones seconded the motion, which passed unanimously.

The complaint was about a doctor who would not accept a new patient. During the initial interview, the doctor discovered that his style of practice would not meet the patient's needs, and he recommended the patient seek a more suitable practice.

32. CR 10-188

Dr. Gleaton moved to dismiss CR 10-188. Dr. Dumont seconded the motion, which passed unanimously.

In this case, a patient complains of inappropriate care during and following a surgical procedure. She also complains the surgeon dismissed her suggestion of a drain placement. The physician explained her treatment and a second opinion agreed with the care rendered. A review of the medical records indicates that while a complication occurred during the post-operative course it was not the result of substandard care and it was treated appropriately.

33. CR 10-198

Dr. Hatfield moved to dismiss CR 10-198. Dr. Gleaton seconded the motion, which passed 6-0-0-1 with Dr. Jones recused.

The complainant feels that the physician inappropriately stopped his Plavix medication, directly leading to a myocardial infarction and the need for two coronary artery stents to be placed. He feels that the physician was intentionally trying to cause him harm. He also states that the physician was sarcastic and inappropriate when addressing the patient's depression. Lastly, he feels that a prostate examination was done more roughly than was appropriate.

A review of the records shows that the physician was contacted in February of 2006, one month after the patient's Coronary Artery Bypass Grafting (CABG) surgery, by a member of the surgical team with instructions to have the patient put on Plavix for 6 months. The Plavix was discontinued in October of 2006. Of note, Plavix is not approved for post-CABG preventative treatment, and thus stopping the Plavix was not inappropriate.

It is not possible to know the dynamics of the patient-physician interactions, but the medical records show that the physician was trying to do what was best for the patient, with no evidence of wanting or trying to harm the patient. It is not possible to know whether the prostate examination was overly rough.

34. CR 10-201

Dr. Nyberg moved to dismiss CR 10-201. Dr. Gleaton seconded the motion, which passed unanimously.

The complainant alleges that the physician had a medication forcibly administered to her in the emergency room, even though she told the physician that she was allergic to it. The physician provided a detailed response that explained his medical rationale for administering the medication, and denied that the complainant suffered any adverse reaction to it. A review of the medical records corroborates the physician's response and supports the medical decision-making.

35. CR 10-202

Dr. Gleaton moved to dismiss CR 10-202. Dr. Jones seconded the motion, which passed unanimously.

The patient complains that the physician was verbally aggressive and used vulgar and inappropriate language. The physician denies these allegations and reports that all patient encounters were in the presence of a nurse. The medical record reveals that there were visits with multiple other care providers and these concerns were never raised by the patient.

36. CR 10-237

Ms. Holmes moved to dismiss CR 10-237. Dr. Gleaton seconded the motion, which passed unanimously.

This complaint is about a procedure allegedly performed in the 1970's. The physician has not been able to locate any records for the complainant who has offered no documentation other than a birth certificate. The file is incomplete so the Board can take no action.

37. CR 10-256

Dr. Nyberg moved to dismiss CR 10-256. Dr. Dumont seconded the motion, which passed 6-0-0-1 with Dr. Jones recused.

The complainant alleges the physician misdiagnosed him, and then refused to edit the medical record to delete the particular misdiagnosis. The physician denied misdiagnosing the complainant, alleged that the diagnosis was supported by the history provided by the complainant's spouse and the recorded observations of the responding emergency medical service personnel. A review of the record supports the physician's diagnosis, including the complainant's refusal to undergo additional medical diagnostic testing to confirm/rule-out the diagnosis.

38. CR 10-278 DAVID A. YORK, M.D. [SEE APPENDIX A ATTACHED]

Ms. Holmes moved to approve a signed consent agreement, which includes voluntary surrender of his license, to resolve CR 10-278 David A. York, M.D. Dr. Gleaton seconded the motion, which passed unanimously.

IV. ASSESSMENT & DIRECTION

39. AD 10-175 (CR 10-430)

Dr. Dumont moved to issue a complaint in the matter of AD 10-175 (CR 10-340). Dr. Gleaton seconded the motion, which passed unanimously.

40. AD 10-176 (CR 10-431)

Dr. Dumont moved to issue a complaint in the matter of AD 10-176 (CR 10-341). Dr. Gleaton seconded the motion, which passed unanimously.

V. INFORMAL CONFERENCE(S) (NONE)

NOON MEAL

PUBLIC SESSION

VI. MINUTES OF JUNE 8, 2010

Dr. Jones moved to approve the minutes of June 8, 2010. Dr. Gleaton seconded the motion, which passed unanimously.

VII. NEW BUSINESS (NONE)

VIII. BOARD ORDERS & CONSENT AGREEMENT MONITORING AND APPROVAL

A. BOARD ORDERS (NONE)

B. CONSENT AGREEMENT MONITORING AND APPROVAL

1. CR 08-287 BENJAMIN BROWN, M.D.

Dr. Brown's Consent Agreement dated April 14, 2009, states Dr. Brown shall restrict his practice of medicine to a location approved by the Board. Dr. Brown is currently approved to work at Maine General Medical Center in Waterville. At the June 8, 2010 meeting Dr. Brown petitioned the Board to amend his Consent Agreement so he may remain eligible as an ABFM diplomat. The Board reviewed the proposed amendment which would delete the existing language in paragraph 12(d) (1) and replace it with the following:

> Clinical Setting/Inspections. During the period of probation, Dr. Brown shall notify the Board of all locations where he practices medicine. In addition, Dr. Brown shall permit the Board or its agents to conduct announced and/or unannounced inspections of all locations where he practices medicine. Dr. Brown shall reimburse the Board for any actual costs incurred as a result of any inspection performed pursuant to this section.

Dr. Dumont moved to approve the proposed amendment to Consent Agreement of Benjamin Brown, M.D. Dr. Nyberg seconded the motion, which passed unanimously.

2. CR 07-197 DANIEL BOBKER, M.D.

Dr. Bobker, supported by his substance abuse counselor Dr. Publiker, has requested a change in his substance abuse counseling pursuant to section 15e(i) of his Consent Agreement, which requires substance abuse treatment twice monthly. Dr. Publiker has recommended a change in such counseling to consist of monthly sessions with Dr. Bobker.

Dr. Dumont moved to direct the Board's legal counsel to amend Dr. Bobker's Consent Agreement to allow for monthly substance abuse counseling. Dr. Nyberg seconded the motion, which passed 6-0-0-1 with Dr. Hatfield recused.

3. CR 10-208 MICHAEL J. GRIFFIN, M.D. [SEE APPENDIX B ATTACHED]

Dr. Gleaton moved to approve the Consent Agreement to voluntarily surrender his medical license in the matter of CR 10-208 Michael J. Griffin, M.D. Dr. Dumont seconded the motion, which passed 6-0-0-1 with Dr. Oldham recused.

4. CR 09-220 LINDA KENISTON-DUBOCQ, M.D. – APPROVAL OF PROVIDERS

Dr. Keniston-Dubocq is requesting approval of the following providers for professional management pursuant to her Consent Agreement: (1) Primary Care Physician – Reynerio Lanoy, M.D.; (2) Mental Health Treatment – Whitney Houghton, M.D.; (3) Substance Abuse Treatment -- Kathryn Kellison, LCSW; and (4) Practice Manager – Gavin Ducker, M.D.

Dr. Dumont moved to approve the providers proposed by Dr. Keniston-Dubocq. Dr. Jones seconded the motion, which passed unanimously.

4. MONITORING COMPLIANCE REPORT (FYI)

IX. ADJUDICATORY HEARING

A. CR 08-315 ELLEN E. MICHALOWSKI, M.D.

The continuance of an Adjudicatory Hearing was convened in the matter of Ellen E. Michalowski, M.D. to settle CR 08-315. An official Board Order will be prepared by the Hearing Officer and presented to the Board for review at the September 14, 2010 meeting.

X. REMARKS OF CHAIRMAN (NONE)

XI. EXECUTIVE DIRECTOR'S MONTHLY REPORT

The Board accepted the report of the Executive Director.

A. COMPLAINT STATUT REPORT (FYI)

B. POLICY REVIEW – MPHP EVALUATION REQUIRED

According to current Board policy "an evaluation and program participation recommendation by the Maine Professionals Health Program (MPHP) will be required of any applicants for licensure or renewal who report an arrest for operating under the influence (OUI), or any other health or practice difficulties related to alcohol or any substance, including actions taken by other jurisdictions within the past 10 years." It is proposed that the timeframe for reporting be changed to 5 years in keeping with current license application and the Health Insurance Portability and Accountability Act (HIPAA) standards.

Dr. Gleaton moved to change the reporting timeframe of Board policy "MPHP Evaluation Required" to 5 years. Ms. Holmes seconded the motion, which passed unanimously.

C. BOARD DIRECTIVE REVIEW – ADMINISTRATIVE CLOSURE OF COMPLAINTS

Dr. Jones moved to adopt the staff proposal to change the reviewer of complaints which have been rescinded by a complainant to the Medical Director in place of the Board Secretary. Dr. Gleaton seconded the motion, which passed unanimously.

D. COMPLAINT PROCESS DISCUSSION – WHEN RECORDS RELEASE IS WITHHELD.

Board staff will investigate process options for complaints when the records release has been withheld and make recommendations to the Board.

XII. MEDICAL DIRECTOR'S REPORT (NONE)

XIII. REMARKS OF ASSISTANT ATTORNEY GENERAL (NONE)

XIV SECRETARY'S REPORT

A. LIST A

1. M.D. LIST A LICENSES FOR RATIFICATION

Dr. Gleaton moved to ratify the Board Secretary's approval of the physician on List A. for licensure. Ms. Holmes seconded the motion, which passed unanimously.

The following license applications have been approved by Board Secretary Gary R. Hatfield, M.D. without reservation:

| NAME | SPECIALTY | LOCATION |
|---|---|---|
| Bedi, Puneet | IM | Caribou/Presque Isle |
| Bhat, Shyam K. | Psychiatry | Waterville |
| Brown, Janet L. | Gynecology | Not listed |
| Cervenka, Robert P. | OB/GYN | York |
| Ganji, Srinivas S. | Neurology/Clinical Neurophysiology | Not Listed |
| Garrett, Valerie D. | Internal Medicine | MMC/Portland |

| | | |
|---|---|---|
| Hapangama, Neil | Internal Medicine | Fort Kent |
| Hardel, Michael D. | Anesthesiology | Lewiston |
| Hinkes, Paul | Pediatrics/Neonatal-Perinatal | Telephonic Reviews |
| Hoekstra, Suzanne A. | Surgery | Portland |
| Holtzclaw, Stephen G. | Emergency Medicine | Not Listed |
| Ianosi-Irimie Monica R. | Clinical Pathology | Scarborough |
| Isaac, Michael J. | Internal/Geriatric Medicine | Lewiston-Auburn |
| Javery, Shahid M. | Internal Medicine | Caribou |
| Joy Stephanie L. | Pediatrics | Brunswick |
| Koch, Marc E. | Anesthesiology | Not listed |
| La Haye, Jocelyn J. | Psychiatry | Westbrook |
| Lawal, Moshood A. | Internal Medicine | Biddeford |
| LeBlond, Robin A. | Pediatrics | Waterville |
| Mathis, Jerry L. | Allergy and Immunology/Pediatric | Lewiston |
| McCrann, Catherine H. | Gastroenterology | Lewiston-Auburn |
| McGuckin, James F. | Interventional/Vascular Radiology | Not Listed |
| Murray, John M. | Emergency Medicine | Rockport/Damariscotta |
| Nall, Courtney K. | Family Medicine | Portland |
| Nichols, Markyia S. | OB/GYN | Caribou |
| Nouranifar, Rabin K. | Radiology | Lewiston |
| Ravin, Neil D. | Endocrinology | York |
| Richards, Amber M. | Emergency/Emergency Pediatric | Portland |
| Roch, James J. | Anesthesiology | Not Listed |
| Saber, Cameron R. | Radiology | Biddeford/Portland |
| Sayeed, Jaweed | Cardiology | AMC/Presque Isle |
| Skinner, Henry C. | General/Child/Adolescent Psychiatry | Portland |
| Sotherland, Dale L. | IM/Pulmonary/Critical Care | Lewiston |
| Sotirovic, Sasha | General Surgery/Trauma/Critical Care | EMMC/Bangor |
| Tammineni, Suresh K. | Internal Medicine | Bangor |
| Welch, Mark J. | Radiology | Ellsworth |

2. P.A. LIST A LICENSES FOR RATIFICATION

Dr. Gleaton moved to ratify the Board Secretary's approval of the physician assistants on List A. for licensure. Dr. Jones seconded the motion, which passed unanimously.

The following Physician Assistant license applications have been approved by the Board Secretary Gary R. Hatfield, M.D. without reservation:

| NAME | LICENSE | PSP | LOCATION |
|---|---|---|---|
| Lila Erickson, PA-C | Active | Edward Steele, M.D. | Islesboro |
| Thomas Greene, PA-C | Active | Carole St. Pierre-Engels, M.D. | Presque Isle |
| | | Peter Goth, M.D. | Presque Isle |
| Ryan Zimmerman, PA-C | Active | Brad Wadden, M.D. | Bangor |
| Chris McLaren, PA-C | Active | David Burke, M.D. | Bangor |
| Amy Taisey, PA-C | Active | Sarah Shubert, M.D. | Falmouth |

| | | | |
|---|---|---|---|
| Kristen Colley, PA-C | Active | Susan Cheff, M.D. | Old Town |
| Garrett Smith, PA-C | Active | Christopher Ritter, M.D. | Old Town |
| Matthew Vieira, PA-C | Active | Brad Cushing, M.D. | Portland |
| Robert Hawkes, PA-C | Inactive | NONE | NONE |
| Lindsay Jones, PA-C | Active | Kimberly Lieber, M.D. | Bangor |

B. LIST B APPLICATIONS FOR INDIVIDUAL CONSIDERATION

1. STEPHEN E. OLSON, M.D.

The Licensure Committee moved to approve the license application of Stephen E. Olson, M.D. The motion passed unanimously.

2. CLIFFORD M. SINGER, M.D.

The Licensure Committee moved to authorize the Assistant Attorney General to craft a Consent Agreement for licensure which mirrors Dr. Singer's Vermont Consent Agreement. The motion passed unanimously.

3. ALLEN T. JACKSON, M.D.

The Licensure Committee moved to preliminarily deny the license application of Allen T. Jackson, M.D. with leave to withdraw his application. The motion passed unanimously.

4. LE THU, M.D.

The Licensure Committee moved to preliminarily deny the license application of Le Thu, M.D. with leave to withdraw his application. The motion passed unanimously.

5. PAUL M. WILLETTE, M.D.

The Licensure Committee moved to approve the license application of Paul M. Willette, M.D. The motion passed 6-0-0-1 with Dr. Dumont recused.

C. LIST C APPLICATIONS FOR REINSTATEMENT (NONE)

D. LIST D WITHDRAWALS

1. LIST D (1) WITHDRAW LICENSE APPLICATION (NONE)

2. LIST D (2) WITHDRAW LICENSE(S) FROM REGISTRATION

Dr. Jones moved to approve the physicians and physician assistants on List D who have applied to withdraw their licenses from registration. Dr. Gleaton seconded the motion, which passed unanimously.

The following physicians and physician assistants have applied to withdraw their licenses from registration:

| NAME | LICENSE NUMBER |
|---|---|
| Bove, Louis | 004620 |
| Davis, Timothy | PA-149 |
| Feese, Jessica | PA001073 |
| Goulding, Thomas | 011704 |
| Hawkins, Donald | 004004 |
| Janne D'Othee, Bertrand | 018349 |
| Quantrill, Sandra | 015878 |
| Schooley, John B. | PA-142 |
| Siddiqui, Saima | 016076 |
| Smedshammer, Margo | PA0011052 |
| Tamaskar, Mandakini | 008199 |
| Tessier, Andrea | PA001094 |

3. LIST D (3) WITHDRAW LICENSE FROM REGISTRATION – INDIVIDUAL CONSIDERATION (NONE)

E. LIST E LICENSES TO LAPSE BY OPERATION OF LAW (FYI)

The following physicians and physician assistants' licenses lapsed by operation of law effective May 24, 2010.

| NAME | LICENSE NO. |
|---|---|
| Arrow, Seth K. | 018154 |
| Beckett, Geoffrey | PA-097 |
| Bohlen, MacKenzie E. | A001100 |
| Bergman, Alf H. | 016746 |
| Christensen, Linda | PA001119 |
| Dye, Joel V. | 015520 |
| Fanning, Joseph P. | 005728 |
| Forti, Jessica | PA001069 |
| Forrey, Roderick A. | PA-315 |
| Gary, Nader G. | 007359 |
| Harb, Zouhair F. | 017924 |
| Kopecky, Anthony A. | PA001144 |
| Lee, Hans J. | 017766 |
| Levy, Michael | 014941 |
| Magnuson, Martha M. | PA-732 |
| Marlin, Karen A. | PA-079 |
| Mayer, Darren M. | PA-322 |
| Nipper, Karen | 016924 |
| Pope, Allison C. | 017037 |
| Riechel, James W. | 008256 |

Samenfeld-Specht, James A. .....016436
Schmidt, William G. Jr. .....017798
Schwemm, Michael S. .....017622
Shah, Brian S. .....017258
Thompson, Robert C. .....013706
Turgeon, Dennis D. .....PA-688
Waldes, Elizabeth .....PA001136

F. LIST F LICENSEES REQUESTING TO CONVERT TO ACTIVE STATUS (NONE)

G. LIST G – RENEWAL APPLICATIONS FOR REVIEW

1. SEAN McCLOY, M.D.

The Licensure Committee moved to deny Dr. McCloy's request for a waiver. The motion passed unanimously.

2. JOHN BOOTHBY, M.D.

The Licensure Committee moved to grant renewal due to extenuating circumstances. The motion passed unanimously.

3. GEORGE GRIFFIN, III., M.D.

The Licensure Committee moved to preliminarily deny Dr. Griffin's application for renewal based on action taken by the State Medical Board of Ohio. The motion passed unanimously.

4. JAMES GEORGITIS, M.D. (AMENDED OFF THE AGENDA)

5. AKEXANDRA CRAIG, M.D. (AMENDED OFF THE AGAENDA)

H. LIST H – PHYSICIAN ASSISTANT SCHEDULE II AUTHORITY REQUESTS FOR RATIFICATION

The following renewal and new requests for Schedule II prescribing authority have been approved by Board Secretary Gary R. Hatfield, M.D.

Dr. Gleaton moved to ratify the Physician Assistants on List H for schedule II privileges. Dr. Jones seconded the motion, which passed unanimously.

RENEWAL REQUESTS FOR SCHEDULE II

| NAME | PSP | LOCATION |
|---|---|---|
| Kevin Curtis, PA-C | Joel Botler, M.D. | Portland |
| Patricia Gagnon, PA-C | Robert Anderson, M.D. | Waterville |

NEW SCHEDULE II REQUESTS

| NAME | PSP | LOCATION |
|---|---|---|
| Joseph Francis, PA-C | Krishna Bhatta, M.D. | Bangor |

XV. STANDING COMMITTEE REPORTS

A. ADMINISTRATION, POLICY & RULES COMMITTEE

Dr. Dumont reported the Administration Committee met today and reviewed the budget. Board goals for next year have not yet been set and the Committee is asking for input from the Board.

B. PHYSICIAN ASSISTANT ADVISORY COMMITTEE

1. DRAFT MINUTES OF JUNE 1 PA MEETING (FYI)

2. COMPLAINT REVIEW

The Board discussed a staff suggestion that the PA Committee stop reviewing complaints against Physician Assistants in order to reduce the amount of time it takes for a complaint involving Physician Assistants to be resolved.

The Board sees significant value in having the PA Committee review complaints both in terms of their input and the educational value of knowing what issues are being brought to the Board with regard to Physician Assistants. The Board directed that no change be made in process.

3. PROPOSED NEW MEMBER

Carrie L. Frederick, M.D., the interim Medical Director of the Physician Assistant Program at the University of New England, has been proposed to replace Jeffrey B. Handler, M.D. on the PA Committee.

Dr. Jones moved to approve Carrie L. Frederick, M.D. as a member of the PA Advisory Committee. Dr. Nyberg seconded the motion, which passed unanimously.

4. JOINT LETTER TO NPs UNDER DELEGATION & DELEGATING PHYSICIAN (FYI)

A joint letter has been sent from the Board of Licensure in Medicine and the Maine State Board of Nursing to Nurse Practitioners and Nurse Midwives under delegation and the delegating Physicians informing them that as of July 12, 2010, due to the repeal of the enabling statute, Nurse Practitioners and Nurse Midwives may no longer accept

delegation from a Physician to perform medical acts outside their scope of practice. They may continue to practice within their own scope of practice.

XVI. FYI

XVII MMA PROPOSAL TO RENEW BOLIM FUNDER PROJECT (TABLED TO SEPTEMBER)

XVIII. ADJOURNMENT 3:49 p.m.

Dr. Hatfield moved to adjourn. Dr. Nyberg seconded the motion, which passed unanimously.

Respectfully submitted,

Jean M. Greenwood

Jean M. Greenwood, Administrative Assistant
Board Coordinator
Maine Board of Licensure in Medicine